

FILED
U.S. DISTRICT COURT
SAVANNAH DIV.

IN THE UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF GEORGIA
STATESBORO DIVISION

2007 AUG -1 PM 1:33

LARRY WAYNE POOLE,

)

CLERK

SO. DIST. OF GA.

Plaintiff,

)

v.

)

CASE NO. CV606-68

WARDEN GLENN RICH, et al.,

)

Defendants.

)

O R D E R

After an independent review of the record, the Court concurs with the Magistrate Judge's Report and Recommendation, to which Objections have been filed. The Magistrate Judge found that Plaintiff's case should be dismissed because he failed to exhaust administrative remedies prior to filing suit.

In his Objections, Plaintiff maintains that there was a pattern of abuse at Rogers State Prison, and that inmates were threatened with beatings if they filed grievances regarding the abuse. For this reason, Plaintiff contends that the grievance procedures at Rogers State Prison were not "available." Threats of violent reprisal can render administrative remedies "unavailable" or otherwise justify an inmate's failure to pursue them. See, e.g., Hemphill v. New York, 380 F.3d 680, 688 (2d Cir. 2004).

In the instant case, however, it is unnecessary for the Court to consider whether these alleged threats prevented Plaintiff from filing a grievance. In an interview with Investigator Sandra Smith, Plaintiff stated that he did not file a grievance because he intended to kill Defendant Sergeant Burns upon his release from custody. (Doc. 4, Smith Aff. ¶ 7.) Therefore, the Court concurs with the Magistrate that Plaintiff failed to exhaust his administrative remedies.

Accordingly, the Report and Recommendation is **ADOPTED** as the opinion of Court. This case is **DISMISSED WITHOUT PREJUDICE**, and the Clerk is **DIRECTED** to CLOSE this case.

SO ORDERED this 1st day of August, 2007.


WILLIAM T. MOORE, J.R., CHIEF JUDGE
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA